



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,963	09/28/2001	Richard G. Rebh	FLOR-0162	5193

23377 7590 07/20/2006
WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE, 46TH FLOOR
1650 MARKET STREET
PHILADELPHIA, PA 19103

EXAMINER

DINH, DUC Q

ART UNIT	PAPER NUMBER
----------	--------------

2629

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/965,963	Applicant(s) REBH, RICHARD G.	
	Examiner DUC Q. DINH	Art Unit 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 75-92 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 75-92 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 08, 06 have been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 75-78 and 81-82 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam et al. (U.S Patent No. 5,032,716), hereinafter Lam in view of Gillespie (U.S Patent No. 6,250,001).

In reference to claim 75, Lam discloses an apparatus (Fig. 1-3) for advertising comprising: an output device (20) for disposing proximally to the product (24) for generating sound; a sensor (21 in Fig. 2) for disposing proximally to the product (24) such that the sensor can be actuated proximally to the product (24) a memory (32) comprising instruction for

Art Unit: 2629

generating sound from the output device; a controller (34) in electrical connection with the output device (20), the sensor (21) and the memory (32) the controller executing the memory instructions (in memory 32) in response to a signal generated by the sensor (31) [col. 7, lines 25-41].

Accordingly, Lam discloses everything except a floor display that conveys marketing information for a product that is proximal to the floor display.

Gillespie discloses a floor display that conveys marketing information for a product that is proximal to the floor display (col. 1, lines 22-31).

It would have been obvious for one of ordinary skill in the art at the time of the invention to recognize the concept of using a floor display that conveys marketing information for a product that is proximal to the display as taught by Gillespie is well known and widely accepted as an enhancement to a retail store for increasing sale of production (col. 1, lines 21-29 of Gillespie).

In reference to claim 76, Lam discloses the sensor 14 is a motion sensor (col. 7, lines 23-25).

In reference to claim 77, Long discloses memory instructions comprising instructions for generating a first sound output and instruction for generating second sound output (col.3, lines 41-45).

In reference to claim 78, Long discloses the controller executes the instructions for generating the first sound output in response to a first signal from the sensor and executes the instructions for generating the second sound output in response to a second signal from the sensor (col. 4, lines 66-67).

In reference to claim 81, Lam discloses the output device is at least one speaker (20).

In reference to claim 82, Lam discloses the battery is used for providing direct current for the controller (col. 2, lines 20-22).

In reference to claim 91, Lam discloses programming means 40 for inputting new instruction into the memory device (32) [see col. 3, line 54 – col. 4, line 25]

4. Claims 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam et al. (U.S. Patent No. 5,032,716), hereinafter Lam in view of Gillespie (U.S. Patent No. 6,250,001) and further in view of Long (U.S. Patent No. 5,793,281).

In reference to claim 79, the combination of Lam and Gillespie does not disclose the controller executes the instructions for generating a first sound output in response to a first signal from the sensor and executes the instruction for generating the second sound output signal in response to a second signal from the sensor.

Long discloses a method and apparatus for point of sale promotional announcement having the controller executes the instructions for generating a first sound output in response to a first signal from the sensor and executes the instruction for generating the second sound output signal in response to a second signal from the sensor (col. 4, lines 55-67).

It would have been obvious for one of ordinary skill in the art at the time of the invention to learn the teaching of Long, i.e. using the controller to generate different sounds for different input from the sensor, in the combination of Lam and Gillespie for providing different commercial messages to attract customer to the promotional products.

Art Unit: 2629

5. Claims 80 and 83-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lam and Gillespie in view of Long as applied to claims 75-79 and 81 and further in view of Giraud (U.S Patent No. 5,966,696).

In reference to claim 80, the combination of Lam, Gillespie and Long does not disclose the first signal being generated when the sensor does not sense motion and the second signal being generated when the sensor senses motion. Giraud discloses a system for tracking consumer exposure for advertising. The system functions in either one of an idle mode when the potential consumer are not within a sensed proximity range or zone, i.e.: the sensor does not sense motion, and an active mode, i.e.: when sensor senses motion, to provide first signal and second signal for provide different advertising messages (col. 4, lines 13-20).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the combination of Long and Gillespie to generate first signal when the sensor does not sense motion and second signal when the sensor senses motion as taught by Giraud because it would provide different control signals for appropriate advertising messages to consumers for increasing sales of the advertised products.

In reference to claim 83, the combination of Long and Gillespie does not disclose the floor display is illuminated. Giraud discloses the display system for exposing, i.e.: illuminating, to a number of different advertisements or promotion segments (col. 3, lines 29-35).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the display of the combination of Long and Gillespie to for display to a number of

Art Unit: 2629

different advertisements or promotion segment because it would provide an display system attracting customers with multiple advertising messages to increase sales.

In reference to claims 84-85, Giraud discloses memory 36 for storing instructions for information instructions for displaying different patterns according to the signals from the sensor (col. 4, lines 13-34).

In reference to claim 86, refer to the rejection as applied to claim 80.

In reference to claims 87-89, Long discloses the sensor may consist of other known traffic sensing devices such as floor mats (col. 2, lines 45-47).

In reference to claim 90, Giraud discloses the LCD is rectangular (Fig. 2).

6. Claim 92 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lam and Gillespie in view of Long and of Giraud as applied to claims 75-91 and further in view of Blotky et al. (U.S Patent No.6,762,734).

In reference to claim 92, refer to the rejections as applied to claims 75-91. Accordingly, the combination of Lam, Gillespie, Long and Giraud discloses everything except an input device for inputting new memory instructions into the memory for storage, the input device being electrical communication with the controller. Blotky discloses to improve the dynamic of the display sound or other data may be transferred between the device and external source. The transfer of data may be automatic or it may be triggered, for example by an appropriate sensor such as sensors 52, 54, 56 or by activating another switch provided for this purpose. The addition of the external interface could serve multiple purposes. For example, a user can generate an

Art Unit: 2629

image or sound file on his computer (not shown), or download it, for example from the Internet, and then transmit it to the microprocessor 44 via interface 62. The interface 62 can then store this file in the memory 46. Similarly, data could be transferred from the container 10 to an external source 62 in response to an advertisement displayed on the container 10 activated by an appropriate sensor such as the stress sensor 54.

It would have been obvious for one of ordinary skill in the art at the time of the invention to provide the input device for transfer data between the advertising system and the external source and store new data into the system memory in the combination of Lam, Gillespie, Long and Giraud as taught by Blotky to improve the dynamic nature of the advertising system (col. 3, lines 31-35 of Blotky).

Response to Arguments

7. Applicant's arguments with respect to claims 75-92 have been considered but are moot in view of the new ground(s) of rejection.
8. The provisional obviousness-type double patenting rejection is withdrawn due to the abandonment of the copending Application 09/965,962 on March 03, 2006.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUC Q. DINH whose telephone number is (571) 272-7686. The examiner can normally be reached on Mon-Fri from 8:00.AM-4:00.PM.

Art Unit: 2629

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD HJERPE can be reached on (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DUC Q DINH
Examiner
Art Unit 2629

A handwritten signature in black ink, appearing to read 'Duc Q Dinh', written in a cursive style.

DQD
July 18, 2006